

# AIF RESEARCH INITIATIVE PROPOSAL LIABILITY STATEMENT

Proposal Title: \_\_\_\_\_

The signature of an authorized representative of the proposing agency is required on the following unaltered statement for the Asphalt Institute Foundation (the "Foundation") to accept the agency's proposal for consideration. An executed, unaltered statement confirms the agency's intent and ability to execute a contract that includes the provisions below. The agency's signature below does not obligate the Foundation to enter into any contract. Any contract will be subject to acceptance and execution by the Foundation and will contain other provisions describing the rights and obligations of the parties.

Proposing Agency \_\_\_\_\_

|           |       |
|-----------|-------|
| Name      | Title |
| Signature | Date  |

## CONTRACTOR LIABILITY

(a) The parties agree that the contractor and its employees and agents ("Contractor") will be responsible for performing the work required under the contract, and shall therefore be legally responsible for, and shall indemnify and hold the Foundation harmless for all claims asserted against the Foundation, its affiliates and their respective committee members, officers, directors, employees, and agents, by any third parties, whether or not represented by a final judgment, if such claims arise out of or in connection with Contractor's negligent or wrongful acts in performing such work, including without limitation all claims for bodily injury, death, personal injury, property damage, and other losses, liabilities, costs, and expenses (including without limitation attorney's fees) (collectively, "Losses").

(b) The term "wrongful act" as used herein shall include any tortious act or omission, willful misconduct, failure to comply with Federal or state governmental requirements, infringement of any copyright, trademark, patent or other intellectual property or proprietary right, libel, slander or other defamatory or disparaging statement in any written deliverable required under the contract, or any false or negligent statement or omission made by Contractor in its proposal to the Foundation.

(c) The obligations in paragraph (a) of this clause to indemnify and hold harmless the Foundation shall not extend to claims, damages, losses, liabilities, costs, and expenses to the extent they result directly from the wrongful acts or omissions of the Foundation, its committee members, officers, employees, and agents.

(d) Both the Foundation and Contractor shall give prompt notice to each other upon learning of the assertion of any claim, or the commencement of any action or proceeding, in respect of which a claim under this paragraph may be sought, specifying, if known, the facts pertaining thereto and an estimate of the amount of the liability arising therefrom, but no failure to give such notice shall relieve the Foundation or Contractor of any liability hereunder except to the extent actual prejudice is suffered thereby.

(e) The Foundation and Contractor agree to cooperate with each other in the defense of any claim, action, or legal proceeding arising out of or resulting from Contractor's performance of the work required under this contract, but each party shall control its own defense. The Foundation shall also have the option in its sole discretion to permit Contractor or its insurance carrier to assume the defense of any such claims against the Foundation, but in no event will Contractor agree to the settlement of any claim without the consent of the Foundation.

(f) The obligations under this clause survive the termination, expiration, or completion of performance under this contract.